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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,404	11/14/2001	Takeshi Kamio	SH-0027US	7029
21254 7590 12/08/2008 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
EXAMINER				
HOFFMANN, JOHN M				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
12/08/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09987404	11/14/01	KAMIO ET AL.	SH-0027US

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC  
8321 OLD COURTHOUSE ROAD  
SUITE 200  
VIENNA, VA 22182-3817

## EXAMINER

John Hoffmann

## ART UNIT      PAPER

1791                      20081204

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## Commissioner for Patents

The reply brief (request for reconsideration) filed on 8/11/2008 has not been considered because it is not in compliance with 37 CFR 41.41(a). The reply brief included a new or non-admitted amendment or new or non-admitted affidavit or other evidence."

The request for reconsideration was not persuasive. Appellant argued that Examiner had every opportunity to use the drawings as evidence. The basis for refusal of entry was that examiner could not use 'proportionality' as evidence. In other words proportions derived from the drawings were inadmissible. But now that applicant argues they are relevant, they are no longer inadmissible. In other words the proportionality (not the drawings) is new evidence.

The appeal is forwarded to the Board for a decision on the merits

/John Hoffmann/  
Primary Examiner, Art Unit 1791